

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS F. WINSTON,	)	
	)	
Plaintiff,	)	Civil Action No. 06 - 336
	)	
v.	)	Judge Joy Flowers Conti /
	)	Magistrate Judge Lisa Pupo Lenihan
ACTING HEALTH AND HUMAN	)	
SERVICES SECRETARY; MARY LOU	)	
SHOWALTER, Health Care Adm. SCIH;	)	
MRS. OGOLA, Medical Director, SCIH;	)	
and MS. MILLS, Pa. Asst.,	)	
	)	
Defendants.	)	

**ORDER**

The above captioned case was initiated on March 14, 2006 by the filing of a Motion to Proceed In Forma Pauperis (Doc. No. 1) accompanied by a Complaint. It was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 5), filed on May 31, 2006, recommended that the Plaintiff's Complaint (Doc. No. 4) be dismissed without prejudice because the Plaintiff failed to sign an authorization which would allow the institutional account officer to deduct a partial filing fee. It was further recommended that the Plaintiff be permitted to refile this action within the applicable statute of limitations period by paying the full filing fee. The Plaintiff was served at SCI Huntingdon, 1100 Pike Street, Huntingdon, PA 16654-1112. The Plaintiff was advised he was allowed ten (10) days from the date of service to

file written objections to the report and recommendation. No objections have been filed. After review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

**AND NOW**, this 20th day of July, 2006;

**IT IS HEREBY ORDERED** that Plaintiff's Complaint (Doc. No. 4) is **DISMISSED WITHOUT PREJUDICE** for failure to sign an authorization which would allow the institutional account officer to deduct a partial filing fee.

**IT IS FURTHER ORDERED** that the Plaintiff be permitted to refile this action within the applicable statute of limitations period by either paying the full filing fee or filing a motion to proceed in forma pauperis with a certified account statement from the institution in which he is incarcerated.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 5) of Magistrate Judge Lenihan, dated May 31, 2006, is adopted as the opinion of the court.

Dated: July 20, 2006

By the Court:

/s/ Joy Flowers Conti  
Joy Flowers Conti  
United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

Thomas F. Winston  
DV-8028  
SCI Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112